

COURT INTERPRETER SERVICES IN THE
MASSACHUSETTS TRIAL COURT

A SYSTEM IN CRISIS

Background material



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January 2001

A five year old's hands have been burned. The child's ability to converse in any language is limited. A Spanish interpreter is assigned to the district attorney's office for the formal interview. Although the child has been interviewed by many professionals, the child had yet to state who burned his hands. The interviewer introduces the child to the interpreter, and explains that he can use the interpreter if he wants to. The child responded to the questions in English. When asked about the specific event, he turned to the interpreter and said in Spanish "I ate so and so's Chinese food, so he burnt my hands." Only then was the district attorney able to charge an individual with this crime.

Introduction - Access to justice in Massachusetts courts has reached crisis proportions for non English speakers. The entire court system is impacted on a day to day basis. This need was recognized with the passage in 1986 of G.L.c.221C, Court Interpreters for the Trial Court. Section 2 of the statute states that "A non English speaker, throughout a legal proceeding, shall have a right to the assistance of a qualified interpreter..." While this right is statutorily guaranteed, the resources necessary to ensure equal access are not. Reinventing Justice 2022, the report of the Chief Justice's Commission on the Future of the Courts (1992) recognized that equal justice will be achieved by a court system "...with such a high degree of reliability and professionalism that every citizen will use it with the confidence that he or she will be understood and treated fairly." Equal Justice, Eliminating the Barriers, the final report of the Supreme Judicial Court's Commission to Study Racial and Ethnic Bias (1994), fully detailed the problem of non effective communication with non English speaking persons in the courts. Reports have been written and statutes enacted which recognize the problems of non English speakers, individuals of limited English proficiency, or low English literacy before the courts in Massachusetts. However, the ability of the Trial Court to remedy these problems is hampered by the lack of adequate funding and staff to recruit, train, certify and provide interpreters to the courts requesting them, as well as by a lack of understanding of the barriers faced by individuals seeking access to the courts.

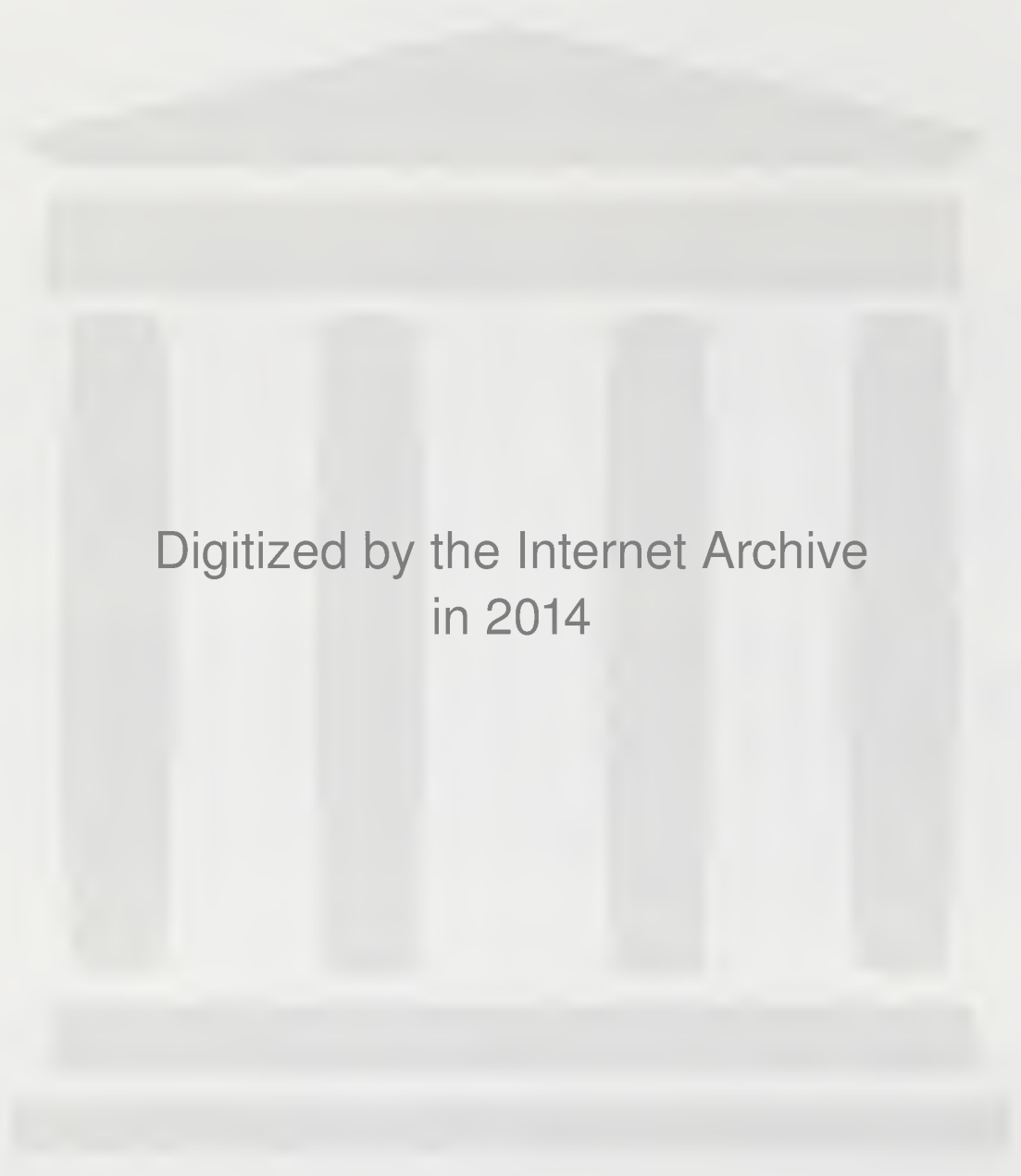
Financial crisis - Demand for interpreter services is escalating exponentially. In Fiscal Year 1999, a total of 23,366 individuals were provided with an interpreter through the Office of Court Interpreter Services (OCIS); with the closing of the Judicial Language Center, the office assumed statewide responsibility in January 1999. The number of individuals provided with an interpreter through OCIS in Fiscal Year 2000 jumped to 56,616, an increase of 142% over the previous year.

Recognizing the scope of the problem, Chief Justice for Administration and Management Barbara Dortch-Okara requested that the interpreter line item, 0330-3700 be funded at **\$813,242** for fiscal year 2001; the actual appropriation approved by the Legislature was only **\$478,436**. Costs associated with free lance interpreters are paid from a central "contract services account" and are not a part of the OCIS line item expenditures. The interpreter line item presently supports four full time staff interpreters (2 Spanish, 1 Portuguese, 1 Khmer), and staff who administer the program - matching court requests with interpreter schedules, arranging for translations, developing materials for and conducting training, administering and grading certification exams, processing the 600 weekly bills of interpreters, amongst other tasks. The staff is at a breaking point.

As requests for interpreters continue to grow at a consistently high level, (13,839 during the first four months of fiscal year 2001), many requests have gone unfilled and cases must be continued. The need for adequate resources is critical. A budget request of **\$1,203,097** has been made for fiscal year 2002. This figure will support seven additional full time Spanish staff interpreters to provide services in a number of the busiest court locations around the state where they are needed on a daily basis, thus reducing reliance on free lance interpreters. The request also supports funds for training, absolutely necessary not only for new interpreters, but also to provide ongoing continuing education to working interpreters. Funds to support additional administrative support staff and resources have also been anticipated in this request, to ensure that all court requests and related functions are addressed.

The seven additional full time Spanish interpreters which have been requested will be assigned to court complexes, or courts, where all day coverage is now provided by free lancers. Providing these full time interpreters in Worcester, Salem, Springfield, Brockton, Boston and Chelsea will ensure certainty of assignment for these areas, and is cost beneficial. The cost of a full time interpreter is \$45,204; utilizing a free lance interpreter for similar coverage costs \$65,000 plus travel expenses. The total cost for Spanish interpreters in fiscal year 2000 was \$2,832,179. This per diem service is provided by 55 interpreters, whose availability varies from full time to one day every two weeks.

A call for a Bosnian interpreter was received late one afternoon for a potential care and protection matter. There appeared to be a crisis situation, and the children were about to be removed from the home. No one knew what was going on. Neither the parents nor the children spoke English; no one from DSS spoke Bosnian. The matter was put on for the next morning. A Bosnian interpreter was located who could travel to the court the next morning. With the interpreter's help, the court established that the children were not being abused. The children remained with the parents; DSS took no action. The family has had no further court involvement.



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What are the language needs in the Massachusetts Trial Courts? In Fiscal Year 2000, the clients served were as follows:

Spanish	41,513	73%
Portuguese	4,499	08%
Khmer	2,178	04%
Vietnamese	1,846	03%
Haitian	1,216	02%
Cape Verdean	1,116	02%
Sign Lang/CART*	902	01%
Russian	878	01%
Other Languages**	2,370	04%
Total	56,518	

* Sign language/CART reporters are assigned by the Massachusetts Commission for the Deaf and Hard of Hearing; OCIS however, also processes the bills for this interpreting.

** Represents 59 other languages

Under the current inadequate operation, OCIS is also unable to recruit, train, test and certify new interpreters. The crisis in staffing and funding prevents recruiting the individuals so desperately needed in the justice system. The Training Director presently has on file the applications of 155 qualified individuals. Lacking funds for testing and certification, we are unable to assess the linguistic capability of these individuals, and to provide a comprehensive course in interpreting to those who have the requisite skills in both English and a second language. Thus, we are unable to substantially increase the pool of available resources, and must continue to respond to greater numbers of requests with the same number of interpreters. This often requires double or triple scheduling of interpreters, creates interpreter burnout, and results in courts being shortchanged. During calendar year 2000, OCIS lost the services of 22 experienced interpreters, some citing burnout or better opportunities as the reason for no longer providing services.

Other Costs associated with providing interpreter services (Contracted Services) - In fiscal year 2000, the Trial Court was billed \$4,575,170 by free lance interpreters through OCIS to provide services to the courts; this figure excludes the expenditures from the Interpreter line item. Additionally, another \$44,250 was spent on translations of court documents necessary for court matters to proceed. Public perception is that most of this money is being spent on criminal cases. In reality, about one-half of these sums were for civil matters in Probate and Family, Juvenile, and Housing matters.

Presently, OCIS has an administrative staff of only six individuals. The demands on them has reached crisis proportions. Every day, they receive and must respond to 125 court requests for interpreters, 150 phone calls, 200 faxes to provide interpreters statewide in 43 languages. They must rely on a patchwork of 111 free lance interpreters whose availability is often uncertain. They also must rely on untrained, temporary workers for data entry, which has resulted in interpreters erroneously sent to the wrong court, or a Portuguese interpreter being

scheduled when a Vietnamese interpreter was requested. The ability of the Trial Court to meet the legal requirement of providing access to justice to those who come before the courts and require an interpreter to participate in their case is fragile at best. An increase in funding for fiscal year 2002 is critical to guarantee that the public's rights are ensured.

A recent care and protection matter involving the custody of children had been scheduled two months in advance at a Juvenile Court; an interpreter had been requested in advance for the father. All parties were present, including two expert witness psychologists. Due to a shortage of interpreters, the assigned interpreter was sent first to a jury trial at a District Court with instructions to then go immediately to the Juvenile Court. Because the interpreter was detained and could not get to the Juvenile Court before noon, the case had to be rescheduled, thus inconveniencing the family, the witnesses, and causing a disruption of the court schedule.

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